

1 SPECIAL ORDINANCE NO. S-80-01-09 - *CHS, amended*

2 SPECIAL ORDINANCE NO. S- *04-80*

3 AN ORDINANCE OF THE CITY OF FORT WAYNE, INDIANA  
4 AUTHORIZING THE ISSUANCE AND SALE OF REVENUE BONDS  
5 AND THE LOANING OF THE PROCEEDS DERIVED THEREFROM  
6 TO WOODBRIDGE APARTMENTS TO FINANCE THE COSTS OF  
7 CONSTRUCTION OF A COMMERCIAL FACILITY.

8 WHEREAS, the City of Fort Wayne, Indiana (hereinafter called  
9 the "City") is a municipal corporation and political subdivision  
10 of the State of Indiana and by virtue of I.C. 18-6-4.5-1 through  
11 18-6-4.5-29, inclusive, as amended (hereinafter called the "Act")  
12 is authorized and empowered to acquire economic development  
13 facilities as those words are defined in the Act and to make direct  
14 loans to users for the acquisition and construction of economic  
15 development facilities to promote the general welfare of the area  
16 in and near the City and to issue its economic development revenue  
17 bonds to pay all costs of acquisition or construction of such  
18 economic development facilities, including engineering, legal fees,  
19 and all other expenses relating thereto during construction, in-  
20 cluding the costs of issuing the bonds, and to secure said bonds  
21 pursuant to a Loan Agreement dated as of January 1, 1980, by and  
22 between the City and the User (the "Loan Agreement") and an  
23 Indenture of Trust dated as of January 1, 1980 by and between the  
24 City and a trustee to be named later (the "Indenture"); and

25 WHEREAS, Woodbridge Apartments (the "User") is a limited  
26 partnership organized and existing under the laws of the State of  
27 Indiana, with its principal office located in Indianapolis, Indiana,  
28 and duly qualified to conduct business in the State of Indiana; and

29 WHEREAS, the User has agreed to acquire and construct economic  
30 development facilities for residential use within the limits of the  
31 City in the State of Indiana and thereby promote the general  
32 economic welfare of the area in and near the City and provide  
33 diversification of housing in and near the area of the City, and  
34 make payments pursuant to the Loan Agreement evidencing its loan  
35 obligations in an amount or amounts sufficient to pay the principal  
of and interest on the economic development revenue bonds herein-  
after authorized; and

*attached letter to be  
typed in the Journal*

1 WHEREAS, the Common Council of the City (the "Common Council")  
2 has heretofore, by Ordinance and pursuant to I.C. 1971, 18-6-4-1  
3 through 18-6-4-28, inclusive, created the Fort Wayne Economic  
4 Development Commission (the "Commission") and the members of the  
5 Commission have been duly appointed and qualified pursuant to law  
6 and the Commission has organized and undertaken the duties imposed  
7 upon it by the Act and has found by written resolution that,  
8 because of existing insufficient sites developed for residential  
9 use, the economic welfare of the City would be benefited by  
10 financing the acquisition of economic development facilities for  
11 residential use for and on behalf of the User; and

12 WHEREAS, the Commission has, by such resolution, approved a  
13 report and has submitted such report to the Plan Commission of  
14 Fort Wayne, Indiana, and, if required by the Act, to the  
15 Superintendent of the school corporation where the facilities will  
16 be located; and

17 WHEREAS, after giving notice in accordance with the Act, the  
18 Commission held a public hearing on the proposed financing and  
19 adopted a resolution finding the proposed financing complies with  
20 the purposes and provisions of the Act, approving the financing  
21 and approving the form and terms of the Bonds proposed to be  
22 issued by the City for the purpose of funding a loan from the City  
23 to finance the cost of acquisition of such facilities, the Loan  
24 Agreement and Indenture, which resolution and other instruments and  
25 information pertaining to the proposed financing have been trans-  
26 mitted to the Common Council of the City by the Secretary of the  
27 Commission; and

28 WHEREAS, pursuant to the Act, this Common Council has adopted  
29 a resolution finding that the proposed financing of the acquisition  
30 of such economic development facilities for residential by the  
31 User will be of benefit to the general welfare of the City and the  
32  
33  
34  
35

1 County of Allen, approving the proposed financing and authorizing  
2 the issuance by the City of \$3,905,000 principal amount of Con-  
3 struction Loan Revenue Bonds (Woodbridge Apartments Project-FHA  
4 Insured Advances) (the "Bonds") payable solely from the sources,  
5 having such terms and provisions and secured as provided by the  
6 Indenture and the Loan Agreement.

7 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE  
8 CITY OF FORT WAYNE, INDIANA, AS FOLLOWS:

9 Section 1. Public Benefits. The Common Council of the City  
10 hereby finds and determines that the real estate, interests in  
11 real estate, other improvements thereon and other machinery and  
12 equipment, to be acquired and constructed with the proceeds of the  
13 Bonds herein authorized are "economic development facilities" as  
14 that phrase is used in the Act and that acquisition and construction  
15 of the Project will increase the number of sites developed for  
16 residential use in and near the City, will improve and promote the  
17 economic stability, development and the general welfare of the area  
18 in and near the City and will encourage and promote the expansion of  
19 industry, trade and commerce in the area in and near the City and  
20 the location of other new economic development facilities in such  
21 area.

22 Section 2. Findings. The Common Council hereby finds that this  
23 Ordinance (the "Bond Ordinance") is of public benefit to the gen-  
24 eral welfare of the City by tending to overcome the deficiencies  
25 previously found to exist, to-wit: insufficient housing facilities,  
26 and that such benefit is greater than the cost of public facilities  
27 (as that phrase is defined in the Act) which will be required by  
28 the Project and further that the proposed financing will be of  
29 benefit to the welfare of the City and complies with the purposes  
30 and provisions of the Act.

31 Section 3. Authorization of \$3,905,000 Economic Development  
32 Revenue Bonds. In order to pay the cost of acquiring the con-  
33 structing the Project, there are hereby authorized to be issued,  
34 sold and delivered \$3,905,000 aggregate principal amount of the  
35 Bonds maturing July 1, 1982, and bearing interest at the rate of

1 8-1/2% per annum. It is hereby recognized that, pursuant to the  
2 terms of the Loan Agreement, any balance of the cost of the Project  
3 will be paid for by the User.

4 Section 4. Definitions. In addition to the words and terms  
5 defined in this Bond Ordinance, the words and terms used in this  
6 Bond Ordinance shall have the meanings set forth in the Indenture  
7 and Loan Agreement unless the context or use indicates another or  
8 different meaning or intent and the form of the Bonds and the forms  
9 of the Loan Agreement and Indenture, which forms are before the  
10 meeting, are hereby incorporated by reference in this Bond  
11 Ordinance and the Clerk is hereby directed to insert them into the  
12 minutes of the Common Council and to keep them on file.

13 Section 5. Terms of the Bonds. The total principal amount of  
14 the Bonds that may be issued is hereby expressly limited to  
15 \$3,905,000, provided, however, that the Mayor, upon advice of  
16 counsel, may direct that less than such total principal amount be  
17 issued. The terms of the Bonds will be such as are set forth in  
18 the Indenture and particularly as set forth in Articles II and III  
19 of the Indenture, and such terms are adopted herein by reference  
20 and by approval of the Indenture.

21 The Bonds are limited obligations of the City, payable solely  
22 from payments of principal and interest made by the User pursuant  
23 to the Loan Agreement, or proceeds from the Government National  
24 Mortgage Association ("GNMA") Commitment Contract with respect to  
25 the Project by and between GNMA and Mount Vernon Sales and Mortgage  
26 Corporation, except to the extent that the principal of and int-  
27 erest on the Bonds may be paid out of money attributable to Bond  
28 proceeds or, from temporary investments, or from other moneys, if  
29 any, accruing to the Trustee for the benefit of the bondholders.  
30 The Loan Agreement shall equally and ratably secure all outstanding  
31 Bonds, and payments by the User shall be used by the Trustee to  
32 make like payment of principal of or interest on the Bonds.

33 By the Indenture, the City will assign to the Trustee the  
34 City's rights under the Loan Agreement, including the right of the  
35 City to receive payments thereunder, all as security for the pay-

1 ment of the Bonds. The Bonds will be secured as provided in the  
2 Indenture and the terms of said instrument are adopted herein by  
3 reference and by approval of the instrument.

4 The Loan Agreement, Note and Mortgage from the User to the  
5 City, and documents executed thereunder, will constitute the sole  
6 security for the Bonds. The Bonds and the interest thereon shall  
7 be a valid claim of the respective holders only against the Bond  
8 Fund created under the Indenture and other moneys held by the  
9 Trustee. The City will have no ownership interest in the Project.

10 The Bonds do not and shall never constitute an indebtedness of,  
11 or a charge against the general credit or taxing power of, the City.

12 Section 6. Authorization of Bonds. That there is hereby  
13 authorized and directed the following:

14 (a) The execution, issuance, sale and delivery of  
15 \$3,905,000 Construction Loan Revenue Bonds (Woodbridge Apartments  
16 Project--FHA Insured Advances) Series 1980, of the City of Fort  
17 Wayne, Indiana, dated January 1, 1980, for the purposes expressed  
18 herein, having substantially the form, details and specifications  
19 set out in the Indenture, which Bonds and appurtenant coupons, if  
20 any, shall not constitute nor give rise to a pecuniary liability  
21 of the City or a charge against the general credit or taxing powers  
22 of the City.

23 (b) The execution of the Bond Purchase Agreement pro-  
24 viding for the purchase and sale of the Bonds.

25 Section 7. Indenture. That for the purpose of further  
26 securing the Bonds and to provide the details thereof and to pre-  
27 scribe the terms and conditions upon which the Bonds are to be  
28 secured, executed, authenticated, accepted and held, the Indenture  
29 in substantially the form attached hereto as Exhibit A and con-  
30 taining substantially the terms and provisions set forth therein  
31 is hereby authorized to be executed, attested, sealed and delivered  
32 on behalf of the City by its Mayor (the "Mayor") and the City  
33 Clerk (the "Clerk"), with such changes, modifications, additions  
34 and deletions therein as shall seem necessary, desirable or  
35 appropriate, their execution thereof to constitute conclusive



1 evidence of their approval of any and all changes, modifications,  
2 additions or deletions therein from the form of the Indenture now  
3 before this meeting, and said officials are hereby authorized and  
4 directed to cause said Indenture to be accepted, executed and  
5 acknowledged by the Trustee thereunder. Said Indenture shall  
6 constitute and is hereby made a part of this authorizing bond  
7 ordinance.

8 Section 8. Loan Agreement. That the Mayor and the Clerk are  
9 hereby authorized and directed to execute, attest, seal and  
10 deliver the Loan Agreement in substantially the form attached  
11 hereto as Exhibit B, and containing substantially the terms and  
12 provisions set forth therein, with such changes, modifications,  
13 additions and deletions therein as shall seem necessary, desirable  
14 or appropriate, their execution thereof to constitute conclusive  
15 evidence of their approval of any and all changes and modifications,  
16 additions or deletions therein from the form of the Loan Agreement  
17 now before this meeting.

18 Section 9. Bond Purchase Agreement. That the sale of the  
19 Bonds to the Underwriter pursuant to the Bond Purchase Agreement,  
20 in substantially the form attached hereto as Exhibit C and con-  
21 taining substantially the terms and provisions set forth therein,  
22 is hereby authorized, approved and confirmed, and the Mayor and  
23 the Clerk are hereby authorized and directed to execute, attest,  
24 seal and deliver said Bond Purchase Agreement, with such changes,  
25 modifications, additions and deletions therein as shall seem  
26 necessary, desirable or appropriate, their execution thereof to  
27 constitute conclusive evidence of their approval of any and all  
28 changes and modifications, additions or deletions from the form  
29 of the Bond Purchase Agreement now before this meeting.

30 Section 10. Inducement Letter. That the Mayor is hereby  
31 authorized and directed to accept the Inducement Letter in sub-  
32 stantially the form attached hereto as Exhibit D and containing  
33 substantially the terms and provisions set forth therein for and  
34 on behalf of the City by execution thereof with such changes,  
35 modifications, additions or deletions therein as shall seem

1 necessary, desirable or appropriate, his execution thereof to  
2 constitute conclusive evidence of his approval of any and all  
3 changes, modifications, additions or deletions therein from the  
4 form and content of the Inducement Letter now before this meeting.

5       Section 11. General Partner's Security Agreement. That the  
6 Mayor is hereby authorized and directed to accept the General  
7 Partner's Security Agreement in substantially the form attached  
8 hereto as Exhibit E and containing substantially the terms and  
9 provisions set forth therein for and on behalf of the City by  
10 execution thereof with such changes, modifications, additions or  
11 deletions therein as shall seem necessary, desirable or appropriate,  
12 his execution thereof to constitute conclusive evidence of his  
13 approval of any and all changes, modifications, additions or deletions  
14 therein from the form and content of the General Partner's Security  
15 Agreement now before this meeting.

16       Section 12. Official Statement. That the use of a Preliminary  
17 Official Statement, in substantially the form attached hereto as  
18 Exhibit F, relating in part to the Bonds, be and the same is hereby  
19 authorized a final Official Statement with such changes, modifi-  
20 cations, additions or deletions therein as shall seem necessary,  
21 desirable or appropriate, the Mayor's execution thereof to con-  
22 stitute conclusive evidence of his approval of any and all changes,  
23 modifications, additions or deletions therein from the form and  
24 content from the Preliminary Official Statement now before this  
25 meeting, and the Mayor is authorized to execute said final Official  
26 Statement.

27       Section 13. Additional Documents. That the Mayor and the  
28 Clerk are hereby authorized and directed to execute, attest, seal  
29 and deliver any and all documents and do any and all things deemed  
30 necessary in order to effect the issuance and sale of said Bonds,  
31 and the execution and delivery of said Agreement, Indenture and  
32 Bond Purchase Agreement and to carry out the intent and purposes  
33 of this ordinance.

34       Section 14. Severability. That the provisions of this  
35 ordinance are hereby declared to be separable and if any section,

1 phrase or provisions (including the Exhibits hereto, which are made  
2 a part hereof and incorporated herein by reference) shall for any  
3 reason be declared to be invalid, such declaration shall not affect  
4 the validity of the remainder of the sections, phrases and pro-  
5 visions. The Exhibits herein referenced and made a part hereof are  
6 on file in the office of the Clerk in Fort Wayne, Indiana, and are  
7 available for inspection by any interested party.

8       Section 15. Conflicting Ordinances. That all Ordinances and  
9 parts thereof in conflict herewith are hereby repealed to the extent  
10 of such conflict.

11       Section 16. Recordation. That immediately after its adoption  
12 this ordinance shall be signed by the Mayor and the Clerk, shall be  
13 recorded in a book kept for that purpose and shall take immediate  
14 effect.

15       Section 17. Effective Date. This Bond Ordinance shall be in  
16 full force and effect from and after its passage and approval as  
17 provided by law.

18       PASSED by the Common Council of the City of Fort Wayne,  
19 Indiana, on this \_\_\_\_ day of January, 1980, at \_\_\_\_\_ o'clock  
20 \_\_\_\_ m.

21  
22                               THE CITY OF FORT WAYNE

23  
24                               \_\_\_\_\_  
25                               Councilperson

26       Approved as to  
27       form and legality

28       \_\_\_\_\_  
29       J. L. Hoffman



Read the first time in full and on motion by Stier, seconded by Nuckols, and duly adopted, read the second time by title and referred to the Committee Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, 19\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

DATE: 1-1-80

Charles W. Westerman  
CHARLES W. WESTERMAN  
CITY CLERK

Read the third time in full and on motion by Stier, seconded by Nuckols, and duly adopted, placed on its passage. PASSED (~~lost~~) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	<u>7</u>	<u>1</u>		<u>1</u>	
BURNS	<u>X</u>				
EISBART	<u>X</u>				
GiaQUINTA	<u>X</u>	<u>X</u>			
NUCKOLS	<u>X</u>				
SCHMIDT, D.	<u>X</u>				
SCHMIDT, V.	<u>X</u>				
SCHOMBURG	<u>X</u>				
STIER	<u>X</u>				
TALARICO				<u>X</u>	

DATE: 1-22-80

Charles W. Westerman  
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING-MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE (RESOLUTION) No. 2-04-80 on the 22nd day of January, 1980.

ATTEST:

(SEAL)

Charles W. Westerman  
CHARLES W. WESTERMAN - CITY CLERK

Vivian G. Schmidt  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 23rd day of January, 1980, at the hour of 11:30 o'clock A M., E.S.T.

Charles W. Westerman  
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 23rd day of Jan. 1980, at the hour of 3:00 o'clock P M., E.S.T.

Winfield C. Moses, Jr.  
WINFIELD C. MOSES, JR.  
MAYOR

Read the first time in full and on motion by \_\_\_\_\_,  
seconded by \_\_\_\_\_, and duly adopted, read the second time  
by title and referred to the Committee \_\_\_\_\_ (and the City  
Plan Commission for recommendation) and Public Hearing to be held after  
due legal notice, at the Council Chambers, City-County Building, Fort Wayne,  
Indiana, on \_\_\_\_\_, 19\_\_\_\_, the \_\_\_\_\_ day of  
\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

DATE: \_\_\_\_\_

CHARLES W. WESTERMAN  
CITY CLERK

~~Read the third time in full and on motion by~~ *D. Schmidt*  
seconded by \_\_\_\_\_, and duly adopted, placed on its  
passage. PASSED (LOST) by the following vote:

*To accept the attached letter with ordinance*

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>7</u>	<u>1</u>		<u>1</u>	
<u>BURNS</u>	<u>X</u>				
<u>EISBART</u>	<u>X</u>				
<u>GIAQUINTA</u>		<u>X</u>			
<u>NUCKOLS</u>	<u>X</u>				
<u>SCHMIDT, D.</u>	<u>X</u>				
<u>SCHMIDT, V.</u>	<u>X</u>				
<u>SCHOMBURG</u>	<u>X</u>				
<u>STIER</u>	<u>X</u>				
<u>TALARICO</u>				<u>X</u>	

DATE: \_\_\_\_\_

*Charles W. Westerman*  
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,  
Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL)  
(APPROPRIATION) ORDINANCE (RESOLUTION) No. \_\_\_\_\_  
on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

ATTEST: (SEAL)

CHARLES W. WESTERMAN - CITY CLERK

\_\_\_\_\_  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on  
the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at the hour of  
\_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this \_\_\_\_\_ day of  
19\_\_\_\_, at the hour of \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

\_\_\_\_\_  
WINFIELD C. MOSES, JR.  
MAYOR

BILL NO. S-80-01-09

REPORT OF THE COMMITTEE ON FINANCE

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS REFERRED AN  
ORDINANCE OF THE CITY OF FORT WAYNE, INDIANA AUTHORIZING THE ISSUANCE  
AND SALE OF REVENUE BONDS AND THE LOANING OF THE PROCEEDS DERIVED  
THEREFROM TO WOODBRIDGE APARTMENTS TO FINANCE THE COSTS OF CONSTRUCTION  
OF A COMMERCIAL FACILITY

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT  
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do PASS.

JAMES S. STIER, CHAIRMAN

*James S. Stier*

MARK GIAQUINTA, VICE CHAIRMAN

BEN EISBART

*Ben Eisbart*

PAUL M. BURNS

*Paul M. Burns*

DONALD J. SCHMIDT

*Donald J. Schmidt*

1-22-80  
DATE \_\_\_\_\_ CONCURRED IN  
CHARLES W. WESTERMAN, CITY CLERK